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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,041	09/29/1999	JOHN M. PACKES JR.	WD2-99-030	4801
22927	7590	11/04/2004	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/409,041

Applicant(s)

PACKES ET AL

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 12-27, 29, 31-35, 38-42 and 53-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 12-27, 29, 31-35, 38-42, and 53-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 12-27, 29, 31-35, 38-42, and 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuhl et al. in view of Bloomberg et al.

Reuhl et al. shows all of the limitations of the claims except for providing an override price.

Reuhl et al. shows a system and a method for automatic updating and display of retail prices. (This reference is being used to show a disclosed financing plan, not its being used for updating of prices) From column 14, the screen then displays the following: company (the system user's store and the competitors shopped); location (geography location of store shopped); price (the system user's active price [default price] first and competitors' prices, tagged or advertised); fn code (the system user's financing plan [agreement, customer information and ID are necessary] code, e.g., a "10" may refer to 0% down and no payments or interest until the promotion end date[providing payment at end of the period of time]); prem SKU (SKU's if the product is included in premiums except financing); last shop (the date the competitor's store was last shopped);

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derivative vendor. The customer purchased the item with the financing plan [item conveyed].

Bloomberg et al. teaches, figure 3, the method of price protection in order to increase sales. Information on each retail transaction for the goods and information on selected goods advertised for sale by others within a selected geographic area are entered into the computer system. The computer system then determines at selected time intervals whether automatic rebates [override price] are due to any customers, rebates being due when the computer determines that a product of the selected goods purchased by the customer has been advertised at a lower price by another dealer within the selected time period after the purchase transaction.

Based on the teaching of Bloomberg et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the active price of Reuhl et al. to incorporate the price protection system of Bloomberg et al. in order to increase sales.

Response to Arguments

2. Applicant's arguments filed 7/26/04 have been fully considered but they are not persuasive.

Applicant assert that the prior art does meet the "generally recited" limitation, "determining a final price for a product after the product is conveyed to a customer and before the customer provides any payment for the product". This is not relevant because this limitation is not actually recited. For future arguments on the actual claim

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language, the examiner is using Webster's 9th New Collegiate Dictionary to define the term "charge" as "to fix or ask as fee or payment".

Applicant asserts that there is not sufficient motivation to combine the references. The examiner does not concur. In business, increasing sales is usually a good thing. There are many forms of sales incentives. Reuhl shows a pricing tool based on many different rules and parameters. Bloomberg teach a specific pricing rule, price protection. It would be obvious to one of ordinary skill in the business art to incorporate additional pricing rule methods in order to provide more options based on the business environment. Note that the goal of most of the pricing rule methods, including sales incentives, is to increase sales.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Cuff 11/1/04
Michael Cuff
November 1, 2004